

**JIM. GIBBONS**  
Governor



STATE OF NEVADA  
**STATE ENVIRONMENTAL COMMISSION**

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**ALLEN BIAGGI**  
Director



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Carson City, NV

January 08, 2008

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Commission on Mineral  
Resources

Ms. Brenda Erdoes, Legislative Counsel

C/o Debra. Corp  
Legislative Counsel Bureau (LCB), Legal Division  
401 South Carson Street  
Carson City, Nevada 89701-4747

MEMBERS

Pete Anderson  
State Forester  
Division of Forestry

**Re: Regulation P2008-03: Delivery Prohibition Underground Storage Tanks**

Dear Ms. Corp:

Enclosed for "drafting" by the LCB Legal Division is a proposed permanent regulation that would amend NAC 459.9921 to 459.999. This regulation would implement a delivery prohibition for underground storage tanks which are not operating in accordance with program requirements thus marking them ineligible for the acceptance or delivery of a regulated substance.

Donna Rise, Director  
Department of  
Agriculture

Eugene Gans  
Las Vegas, NV

The proposed regulation implements the delivery prohibition provisions from Section 9012 of the federal Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 enacted on August 8, 2005. **Additional information about this proposed regulation is contained in the attached background document.**

Kenneth Mayer - Director  
Department of Wildlife

Ira Rackley  
Las Vegas, NV

If you have any questions about this regulation please contact Mr. Scott Smale at 687-9384.

Tracy Taylor  
State Engineer  
Division of Water Resources

Sincerely,

John B Walker

Harry Shull  
Las Vegas, NV

John B. Walker  
Executive Secretary

Frances Barron  
State Board of Health  
Las Vegas, NV

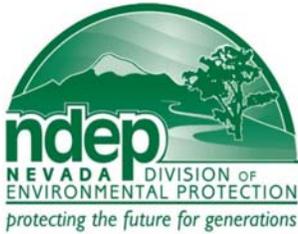
Stephanne Zimmerman  
Las Vegas, NV

JBW  
Enclosure  
ecc: Rose Marie Reynolds, Deputy Attorney General  
Tom Porta, NDEP  
Jim Najima, NDEP - BCA  
Scott Smale, NDEP - BCA

COUNSEL  
Rosemarie Reynolds

STAFF  
[John B. Walker](#)  
Executive Secretary

[Robert Pearson](#)  
Recording Secretary



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

*Jim Gibbons, Governor*

*Allen Biaggi, Director*

*Leo M. Drozdoff, P.E., Administrator*

## Background Information

### Proposed Regulation of the State Environmental Commission - January 2008

**P2008-03: Delivery Prohibition Underground Storage Tanks:** The proposed regulation amends the existing underground storage tank regulations contained in Nevada Administrative Code 459.9921 to 459.999 by instituting a delivery prohibition component of underground storage tank regulation. The proposed regulation implements the delivery prohibition provisions from Section 9012 of the federal Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 enacted on August 8, 2005. In order to continue to receive federal funds under Subtitle I of the SWDA, an implementing agency is required to enact program changes to institute a delivery prohibition element as part of their program.

Delivery prohibition is a mechanism of identifying underground storage tanks that are not operating in accordance with program requirements and marking them as ineligible for the acceptance or delivery of a regulated substance. Delivery prohibition consists of the following elements:

- Criteria for determining ineligible underground storage tanks;
- Mechanisms for identifying ineligible underground storage tanks;
- Processes for reclassifying ineligible underground storage tanks as eligible;
- Processes for providing adequate notice to underground storage tank owners/operator and product deliverers; and,
- Processes for determining the specified geographic areas subject to the rural and remote areas consideration.

The State of Nevada has chosen to employ a "red-tag" method for identifying underground storage tanks that are ineligible for delivery. The regulations make it unlawful to either accept or deliver a regulated substance to a tank that has been properly and physically marked with a visible "red-tag". The Division will have control over the placement and removal of the red-tag, though mechanisms are provided for the Division to authorize a facility owner or operator to place and remove a red-tag.